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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/711,478	11/13/2000	Brian A. Vulpitta	MA-12957	7902

7590 06/10/2002

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EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 06/10/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

TC-7

# Office Action Summary

Application No.

09/711,478

Applicant(s)

VULPITTA ET AL.

Examiner

Jane J Rhee

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                 | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: ____                                     |

**DETAILED ACTION**

***WITHDRAWN REJECTIONS***

1. The 35 U.S.C. 103 rejections of claim 2-4, 6-10,12,15 of record in Paper #5, Page 3, Paragraph 4 are withdrawn due to Applicant's argument in Paper #6.

***REJECTIONS REPEATED***

2. The 35 U.S.C. 102 rejection of claims 1,5,11,13-14 over Downing is repeated for the reasons previously of record in Paper #5, Page 3, Paragraph 2.

***NEW REJECTIONS***

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-4,6-10,12, and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Downing in view of Martin-Cocher et al. (5884857).

Downing discloses an adhesive tape with a foam strip that has a uniform width approximately equal to the adhesive tape width and surrounds the core in a single layer (figure 1 number 28). Downing fails to disclose that the core has an outer surface bulging outwardly near the core's axial center giving the core a barrel shape. Downing fails to disclose that the foam strip surround the core in a single layer is about 40 mils (1mm) thick. Martin-Cocher et al. teaches that the core has an outer surface bulging outwardly near the core's axial center giving the core a barrel shape (figure 1 number

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23) for the purpose of accommodating the elongation of the film and increase film thickness in its margins (col. 4 lines 56-58).

Downing also discloses that the foam should be thick enough to provide sufficient back tension with given vertical wall and core diameters (col. 3 line 68 and col. 4 lines 1-2). Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have modified the thickness of the foam strip surrounding the core because of the legal precedent established by prior case law *In Re Rose*, 105 UPQ237 (CCPA 1955), which states that a change in size is generally recognized as being within the level of ordinary skill in the art.

Furthermore, it would have been obvious to one of ordinary skill in the art to have provided Downing with the core that has an outer surface bulging outwardly near the core's axial center giving the core a barrel shape in order to accommodate the elongation of the film and increase film thickness in its margins (col. 4 lines 56-58) as taught by Martin-Cocher et al.

#### **ANSWERS TO APPLICANT'S ARGUMENTS**

4. Applicant's arguments filed in Paper#6 regarding the 35 U.S.C. 102 rejections of claims 1 and 2 anticipated by Downing have been fully considered but they are not persuasive.

In response to the applicant's argument that Downing does not disclose positioning of a layer of foam between a tape core and the tape wound upon the core, in figure 1 number 28, 27, 13, the foam (number 28) is between the tape core (number 27), and the tape wound upon the core (number 13). Downing does disclose that the

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foam (frictional material) is carried on the vertical wall, which is apart of the core (col. 3 lines 56-59). In figure 1 number 27 is believe to be the core wherein the foam (number 28) is positioned on the core and the tape (number 13) is positioned on the foam.

**Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-5408 for regular communications and 703-301-9999 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee  
June 4, 2002



HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

6/7/02